

# Agenda Item Form

Agenda Date: June 15, 2004

Districts Affected: City Wide

Dept. Head/Contact Information: Irene Ramirez, P.E. - 541-4431

## Type of Agenda Item:

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Resolution            | <input type="checkbox"/> Staffing Table Changes              | <input type="checkbox"/> Board Appointments        |
| <input type="checkbox"/> Tax Installment Agreements       | <input type="checkbox"/> Tax Refunds                         | <input type="checkbox"/> Donations                 |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer                     | <input type="checkbox"/> Item Placed by Citizen    |
| <input type="checkbox"/> Application for Facility Use     | <input type="checkbox"/> Bldg. Permits/Inspection            | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements            | <input checked="" type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application         |
| <input type="checkbox"/> Other _____                      |  |  |

## Funding Source:

- ☒ General Fund  
☒ Grant (duration of funds: \_\_\_\_\_ Months)  
☒ Other Source: 2004 Bond Issue Project

## Legal:

- ☒ Legal Review Required      Attorney Assigned (please scroll down): Raymond Telles      ☒ Approved      ☐ Denied

Timeline Priority:    ☐ High      ☒ Medium      ☐ Low      # of days: 7

## Why is this item necessary:

Professional Service Industries, Inc. (PSI)

Consultant shall render the following services in connection with the construction of the projects:

Provide technical and engineering services in the field of geotechnical and materials testing, including labor, equipment, and materials for the projects.

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

The consultant fee includes costs for engineering consulting services.

## Statutory or Citizen Concerns:

None

## Departmental Concerns:

None

75 2 04 01 00P 1002  
CITY OF PORTLAND

## RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Agreement for Geotechnical and Testing Laboratory Services by and between the **CITY OF EL PASO** and **PROFESSIONAL SERVICE INDUSTRIES, INC.**, for a two (2) year period for an amount not to exceed ONE MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$1,500,000.00).

ADOPTED THIS 15<sup>TH</sup> DAY OF JUNE 2004.

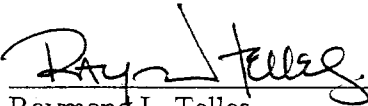
THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy, Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Raymond L. Telles  
Assistant City Attorney

THE STATE OF TEXAS     )  
                                      )  
COUNTY OF EL PASO     )

**AGREEMENT FOR GEOTECHNICAL  
AND TESTING LABORATORY SERVICES**

This Agreement is entered into this 15<sup>th</sup> day of June, 2004 by and between the CITY OF EL PASO, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the "Owner," and PROFESSIONAL SERVICE INDUSTRIES, INC., hereinafter called the "Consultant."

**WHEREAS**, the Owner desires to employ the Consultant to perform "GEOTECHNICAL AND MATERIALS TESTING SERVICES (CITYWIDE)", hereinafter referred to as the "Project", for a two (2) year period with an option to renew for one additional year; and

**WHEREAS**, the Consultant represents that it is fully qualified to perform such services and will furnish such services personally;

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

**I.     SCOPE OF SERVICES**

The Consultant shall render the following services in connection with the construction of the Project:

1.     Provide Labor, Equipment, Materials, Engineering and related laboratory testing services for the geotechnical investigation of the Project as described in Attachment "A," Project Scope, and Attachment "B," Fee Proposal Schedule, both of which are attached hereto and made a part hereof for all purposes. All laboratory testing services for the geotechnical investigation of the Project performed by the Consultant shall be in accordance with the Technical Specifications of the Project Construction Contract documents, a copy of which is available in the City Engineering Department.
2.     Act for the Owner in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of the profession practicing in El Paso, Texas.
3.     Provide only those services that are requested by the Owner which lie within the technical and professional areas of expertise of the Consultant and which the Consultant is adequately staffed and equipped to perform.
4.     Perform all fieldwork under the direct supervision of a field technician with at least five (5) years inspection experience.
5.     Perform all technical services under the direct supervision of a professional engineer registered in the State of Texas, and in accordance with the basic requirements of

the appropriate standards of the American Society for Testing and Materials, where applicable, or other standards designated by the Owner.

6. Employ testing machines which have been calibrated within a period not exceeding twelve (12) months from the time of use by devices of accuracy traceable to the National Bureau of Standards of the United States Department of Commerce, and upon request, submit to the Owner documentation of such calibration.
7. Conduct all air quality sampling and testing, bulk sampling and testing of asbestos, sampling and testing of soils, water or other materials for environmental purposes, as required by the Project in accordance with the methods detailed in the Technical Specifications of the Project Construction Contract documents. If no particular testing methods or procedures are stated in the Project Specifications, the Consultant shall conduct tests requested by the Owner in accordance with methods approved by the OSHA, NIOSH, and/or the EPA, or an accepted equivalent.
8. Consider all geotechnical reports to be the confidential property of the Owner, and distribute reports only to those persons, organizations or agencies specifically designated by the Owner. Submit all reports, passing or failing, as follows:
  - a. Three (3) copies to the Owner or the Owner's designated representative.

The report shall be complete and factual, citing the tests performed, methods employed, values obtained, and parts of the structure or Project area involved. A professional engineer registered in the State of Texas must sign and seal the report.
9. Retain all pertinent records relating to the services performed for a period of five (5) years following submission of the report, during which period the records will be made available to the Owner at all reasonable times.
10. Any additions, deletions, or other modifications to the Project Scope noted herein, shall be set forth by written amendment to this Agreement and shall be signed by the Owner and the Consultant.
11. Consultant agrees that it will not enter property in question without coordinating such entry with the property owner.

## II. CITY'S RESPONSIBILITIES

The Owner or the Owner's authorized designated representative shall:

1. Provide the Consultant with all plans, specifications, addenda, change orders, approved shop drawings and other information for the proper performance of the Consultant.

2. Coordinate the activities of the Consultant. The City Engineer shall designate in writing a person or design consultant to act as the Owner's designated representative with respect to the Consultant's services to be performed under this Agreement.
3. Advise the Consultant at least **twenty-four (24) hours** in advance of any operations so as to allow for assignment of personnel by Consultant for completion of the required services.

### **III. COMPENSATION**

1. The Owner will pay the Consultant for services performed in accordance with the fee schedule, which is attached hereto as Attachment "B" and made a part hereof for all purposes. Such payments to Consultant shall not exceed **ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00)** for the **TWO (2) YEAR TERM** of this Agreement.
2. The Consultant shall submit to Owner an itemized monthly statement showing: (a) the number of hours of work performed by each principal or employee, with a description of the work performed; (b) a description of all testing and analysis for which payment is sought; and (c) a detailed description of all expenses for which reimbursement is sought, with copies of receipts supporting all such expenses. Consultant's statements shall be due and payable within **thirty (30) days** after receipt and approval by Owner. Overtime charges will not accrue until after the Consultant has completed forty (40) hours of work on any one project. Such forty (40) hours of work must be completed within one (1) normal working week, as defined by the general conditions of the applicable construction contract to be deemed overtime.

#### **THE CONSULTANT SHALL SUBMIT SEPARATE INVOICES FOR THE CATEGORIES OF PASSING TESTS AND FAILING TESTS.**

3. The fee proposal which is attached hereto as Attachment "B" includes the cost of salaries and wages paid to principals and employees engaged directly on the Project, with cost of fringe benefits, including but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation, and holiday pay applicable thereto.
4. The Owner shall reimburse the Consultant for the expenses actually incurred and paid by Consultant as set for in Attachment "B." Consultant must obtain the Owner's prior written approval of all expenses that Consultant anticipates incurring. Such expense must have Owner's prior approval before payment will be made.
5. This Agreement comes into effect and full force, and is legally binding, on the date first noted above. This Agreement shall remain in full force for a period of **two (2) years** from the effective date of this Agreement for Geotechnical and

Materials Testing Services. If the Consultant is engaged in providing such services at the time of the termination of this Agreement, the Agreement shall be extended for a reasonable period of time to be agreed upon by the Owner and Consultant. Services provided by the Consultant after the period of this Agreement shall be governed by the unit price fee schedule that is attached hereto as Attachment "B". There shall also be an **OPTION TO RENEW FOR ONE (1) ADDITIONAL YEAR**, at the expiration of the original two (2) year term.

6. The Consultant shall begin work upon a written Notice to Proceed issued by the City Engineer. The period of service per project shall be determined by the Owner together with the Consultant prior to each **Notice to Proceed** and shall be specified in the written Notice to Proceed. The period of service shall be determined in accordance with the complexity of the project assigned to the Consultant. The Consultant shall complete the requested services within the designated time frame for each project stated in the written Notice to proceed.

#### **IV. TIME OF PERFORMANCE**

The Consultant will begin work upon a written **Notice to Proceed** issued by the City Engineer for each assignment. The Consultant shall complete the geotechnical investigation and the testing laboratory services within **ten (10) days** following the issuance of the written notice to proceed.

#### **V. ADDITIONAL SERVICES**

At the request of the Owner, the Consultant shall perform additional laboratory testing services when the Owner determines that the Project necessitates additional services. If in the Consultant's professional judgment, the Consultant believes that additional laboratory testing services need to be performed in connection with the Project, the Consultant shall consult with and obtain written approval from the Owner to perform such additional services. The Consultant shall perform the additional testing laboratory services in accordance with the fee schedule, which is attached hereto as Attachment "B" and made a part hereof for all purposes.

#### **VI. GENERAL CONDITIONS**

##### **1. TERMINATION**

- A. The Owner may terminate this Agreement, or any portion of it, by serving advance written notice of termination on the Consultant. The notice shall state whether the termination is for the convenience of the Owner, unsatisfactory performance or for the default of the Consultant. If the termination is for default or unsatisfactory performance, the notice shall be **seven (7) days** written notice, and shall state the manner in which the Consultant has failed to perform the requirements of the contract. The Consultant shall account for any property in its possession paid for from funds received from the Owner, or property supplied to the Consultant by the Owner. If the termination is for default or unsatisfactory performance,

the Owner may fix the fee to be paid the Consultant in proportion to the value, if any, of work performed up to the time of termination. Notwithstanding the above, the Consultant shall not be relieved of liability to the Owner for damages sustained by the Owner, which were proximately caused by any breach of the Agreement by the Consultant. Moreover, the Owner may withhold any payment to the Consultant for the purpose of set off until such time as the exact amount of damages due the Owner, from the Consultant, is determined.

- B. If the termination is for the convenience of the Owner, the Consultant shall be paid in proportion to the work performed up to the time of termination. Termination without cause for convenience shall be by **fifteen (15) days** written notice.
- C. If, after serving notice of termination or default, the Owner determines that the Consultant has an excusable reason for not performing, such as a strike, fire, flood, or events which are not the fault of and are beyond the control of the Consultant, the Owner after setting up a new work schedule, may allow the Consultant to continue work, or treat the termination as a termination for convenience.
- D. The remedies herein reserved shall be cumulative and additional to any other or further remedies in law or equity. No waiver of a breach of any provisions of this Agreement shall constitute a waiver of any other breach of such provision.

2. **INSURANCE** The Consultant shall not commence work under this Agreement until the Consultant has obtained sufficient insurance as required herein, and such insurance has been approved by the Owner.

- A. Workers' Compensation Insurance - The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement.
- B. Commercial Liability, Property Damage Liability and Vehicle Liability Insurance - The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Vehicle Liability Insurance as shall protect the Consultant and the Consultant's employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this contract, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant, and the minimum limits of liability and coverages shall be as follows:

a. Commercial General Liability

Bodily Injury

- \$500,000.00 each person

Property Damage

- \$500,000.00 each occurrence

General Aggregate

- \$1,000,000.00

b. Vehicle Liability

Combined Single Limit

- \$1,000,000.00

\*Aggregate limits shall apply to this project only.

The Owner shall be named as an Additional insured on all of the Consultant's Insurance Policies, with the exception of Workers' Compensation Insurance, required by this Contract. All of the Consultant's Insurance Policies shall remain in effect until final payment under this Agreement.

C. Professional Liability Insurance - The Consultant shall procure and shall maintain, at the Consultant's sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement.

D. Proof of Carriage of Insurance - The Consultant shall furnish the City Engineer with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates shall also contain the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after **thirty (30) consecutive calendar days** written notice of intent to cancel or materially alter said insurance has been provided to the Owner."

3. **INDEMNIFICATION** THE CONSULTANT SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE OWNER, AND ALL ITS AGENTS, OFFICERS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, CAUSES OF ACTION, SUITS AND DAMAGES OF EVERY KIND, INCLUDING BUT NOT LIMITED TO ALL JUDGMENTS, SETTLEMENT AMOUNTS, ATTORNEYS' FEES, COURT COSTS AND EXPENSES INCURRED IN THE INVESTIGATION, HANDLING, DEFENSE AND LITIGATION OF ANY CLAIM OR SUIT, INCLUDING



BUT NOT LIMITED TO ANY CLAIM OR SUIT FOR BODILY OR PERSONAL INJURY, PHYSICAL OR MENTAL IMPAIRMENT TO OR DEATH OF ANY PERSON, OR FOR DAMAGE OR DESTRUCTION TO ANY PROPERTY, REGARDLESS OF THE MERITS OR OUTCOME OF SUCH CLAIM OR SUIT, ARISING OUT OF OR RESULTING FROM OPERATIONS UNDER THIS CONTRACT, ANY NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL ACTS OR OTHER ACTS(S) OR OMISSIONS(S) OF THE CONSULTANT, ITS EMPLOYEES, OFFICERS, AGENTS, SERVANTS, SUBCONTRACTORS, MATERIALMEN, INDEPENDENT CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, OR ANY OTHER INDIVIDUAL OR ENTITY PERFORMING WORK PURSUANT TO THE TERMS OF THIS AGREEMENT, REGARDLESS OF WHETHER SUCH PERSONS ARE OR ARE NOT ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT AT THE TIME.

4. **Performance** - The Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to the Project customarily vested in the Project architects, design consultants or any other design agencies or authorities.  
The Consultant is not authorized to revoke, alter, relax, enlarge or release any requirement of the Project specifications or other contract documents nor to approve or accept any portion of work, unless specifically authorized in writing by the Owner or the Owner's designated representative. The Consultant shall not have the right of rejection or the right to stop the work, except for such periods as may be required to conduct the sampling, testing or observation of operations covered by this Agreement or as authorized in Section II of this Agreement.
5. **Equal Employment Opportunities:** In providing services under this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Consultant shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this non-discrimination clause. The Consultant shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin. The Consultant shall incorporate the foregoing requirements of this section in all of its subcontracts for work to be performed on this Project.

6. **Obligations of the Consultant with Respect to Third Party Relationships**  
The Consultant shall remain fully obligated under the provisions of the Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the program with respect to which assistance is being provided under this Agreement.
7. **Interest of Members of Local Governing Body or Other Public Officials**  
No member of the governing body of the City of El Paso, and no other public official of the City of El Paso who exercises any function or responsibility with respect to the Project during his tenure or for **one (1) year** thereof, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project assisted under this Agreement.
8. **Successors and Assigns**  
This Agreement shall be binding on the Owner, its successors and assigns, and on the Consultant and its successors, executors, administrators and assigns. The Consultant shall not assign, sublet or transfer its interest or obligations under the provisions of this Agreement without the prior written consent of the Owner. Nothing herein shall be construed as creating any personal liability on the part of any agent or officer of the City of El Paso.
9. **Law Governing Agreement**  
For the purpose of determining the place of the Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.
10. **Notice**  
All notices provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

CITY: City of El Paso  
Attn: Mayor  
2 Civic Center Plaza, 10<sup>th</sup> Floor  
El Paso, Texas 79901-1196

COPY TO: City of El Paso  
Attn: City Engineer  
2 Civic Center Plaza, 4<sup>th</sup> Floor  
El Paso, Texas 79901-1196

CONSULTANT: Professional Service Industries, Inc.  
Attn: Ted Cleveland, CPG  
4601 Ripley  
El Paso, Texas 79922

or to such other addresses that the parties may indicate to each other in writing from time to time.

11. **Authorization to Enter Agreement**

If the Consultant signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of the Consultant warrants to the Owner that Consultant is a duly authorized and existing corporation, that the Consultant is qualified to do business in the State of Texas, that the Consultant has full right and authority to enter into this Agreement, and that each and every person signing on behalf of the Consultant is authorized to do so. Upon the Owner's request, the Consultant shall provide evidence satisfactory to the Owner confirming these representations.

12. **Entire Agreement**

This Agreement constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.

13. **Conflicting Provision**

Any provision contained in the exhibits or attachments to the Agreement, which may be in conflict or inconsistent with any of the provisions of this Agreement shall be void to the extent of such conflict.

14. **Independent Contractor**

Consultant is an independent contractor and not an employee of City.

15. **Auditing Records**

Consultant's records subject to audit shall include but not be limited to records which, in the City's discretion, have a bearing on matters of interest to the City in connection with the Consultant's work for the City and shall be open to inspection and subject to audit and/or reproduction by City's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Consultant's compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where Consultant's records have been generated from computerized data, Consultant agrees to provide City's representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The City or its designee shall be entitled to audit all of the Consultant's records related to this Project, and shall be allowed to interview any of the Consultant's

employees, pursuant to the provisions of this section throughout the term of this Agreement and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places

**VII. COMPLIANCE WITH ALL LAWS - FEDERAL FUNDING REQUIREMENTS**

Consultant, at Consultant's sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the City or Consultant with respect to the use of federal funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal funds.

Specifically, and not in limitation of the foregoing, Consultant agrees that the following covenants shall apply throughout the performance of this Agreement because federal funds are involved and that, in the event of breach of the above covenant or breach of any of the following covenants, City shall have the right to terminate this Agreement.

**A. Anti-Kickback Rules**

Salaries of architects, engineers, draftsmen, technical engineers, technicians and other employees and consultants performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C., Sec. 874; and Title 40 U.S.C., Sec. 276c). The Consultant shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

**B. Section 3 Clause**

The following provisions are incorporated into this Agreement, as required by 24 CFR 135.20 (b):

1. To the extent that the work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the Project be awarded to business concerns, which are located in or owned in substantial part by

persons residing in the area of the Project.

2. The parties to this Agreement shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this agreement certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
3. The Consultant shall send to each labor organization, or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of the commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Consultant shall include this Section 3 clause in every subcontract for work in connection with the Project and shall, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant shall not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and shall not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the construction contract, shall be a condition of the federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its engineers and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
6. That in the furnishing of services hereunder for the purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Consultant shall furnish such services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as

said Regulations may be amended.

7. That in the furnishing of services hereunder for the purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Consultant shall furnish such services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulation may be amended. Consultant shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 CFR Part 27.
8. That no person on the grounds of race, creed, color, sex, age, disability or national origin shall be excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination related to this Agreement.

C. **Access to Records**

In accordance with OMB Circular A-102, Attachment "O", Sec. 4h, the City, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Consultant which are directly pertinent to the City's Community Development Block Grant Program for the purpose of making audit, examination excerpts, and transcriptions.

D. **Interest of Certain Federal Officials**

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise herefrom.

E. **Davis-Bacon Wages**

In preparation of any cost estimates and the Project budget, described herein, the Consultant shall base such estimates and the project budget on the premise that the regulations and requirements enumerated in 29 CFR Part 5, Subpart A (Davis-Bacon and Related Act) apply to the project and must be followed and obeyed.

F. **Termination for Cancellation of Grant**

Should this Agreement be terminated as a result of cancellation of federal funds covering this Project, the City shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to said date upon furnishing the City a progress report and an invoice to such date, and upon acceptance of the work by the City.

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy, Mayor

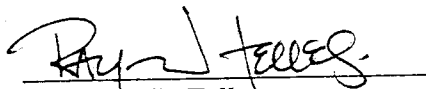
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk


CONSULTANT: PROFESSIONAL  
SERVICE INDUSTRIES, INC.

\_\_\_\_\_  
By: Ted Cleveland, CPG  
Title: Vice-President

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Raymond L. Telles  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Irene D. Ramirez, P.E.  
Interim City Engineer

ACKNOWLEDGEMENTS

THE STATE OF TEXAS    )  
                                  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2004,  
by Joe Wardy, as Mayor of the City of El Paso, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS    )  
                                  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2004,  
by Ted Cleveland, CPG as Vice-President of Professional Service Industries, Inc.

\_\_\_\_\_  
Notary Public, State of Texas



## Project Scope

TITLE: Geotechnical and Materials Testing Services

LOCATIONS: Citywide

BUDGET: \$1,500,000 for two years

GENERAL DESCRIPTION:

The Consultant shall render the following services in connection with the construction of the projects :

1. Provide professional engineering services in the field of geotechnical and materials testing.
2. Provide Technical and Professional Engineering Consultation for the geotechnical investigations and related laboratory testing services, including labor, equipment and materials for the projects.
3. Provide materials engineering and testing, and construction quality assurance /quality control (QA/QC) services. All field and laboratory procedures shall be performed under the direct supervision of a registered professional engineer in accordance with ASTM E 329 Standards Recommended Practice for Inspection and Testing Agencies for Concrete, Steel, and Bituminous Materials as used in construction.
4. Provide the owner a monthly report of tasks and activities related to this service. Report should include project name, percent of testing completed, amount of invoices paid, total amount of purchase order.
5. Provide notification to owner when contractors request overtime for testing. Overtime for testing services will be paid for Contractor. Owner (City) will not pay overtime unless requested and is approved in writing by Owner (City).
6. The Contractor will pay for failed tests. Owner will be provided with date, time and number, amount of failed tests.
7. Provide only those services which lie within the technical and professional areas of expertise which the Consultant is adequately staffed and equipped to perform. The Consultant shall be able to demonstrate that he/she is experienced with the following:

**1. FOUNDATION:**

- (a) Shallow foundations (Continuous and spread)
- (b) Deep foundations (Driven piles, drilled shafts and auger-cast piles)
- (c) Mats and post-tensioned slabs.
- (d) Bearing Capacity (Ultimate and Allowable) Analysis.
- (e) Settlement Analysis
- (f) Load testing of foundations
- (g) Construction inspection of all types of foundation.
- (h) Failure Analysis and Remediation Design for Distressed Foundation and Retaining Walls.

**2. ROADWAY SOIL SURVEYS & PAVEMENT DESIGN:**

- (a) Streets, Airfields and Parking Lots.
- (b) Flexible and Rigid Pavement Designs.
- (c) Subgrade, Subbase and Base Course Stabilization Analysis.
- (d) Construction Materials Specifications.
- (e) Pavement Failure Analysis and Remediation Design.

### 3. SLOPE STABILITY & EARTHEN RETENTION SYSTEMS:

- (a) Earth Pressure Coefficients
- (b) Slope Stability Analysis
- (c) Shoring & Trench Safety System Designs
- (d) Retaining Walls-gravity, sheet pile, bulkhead, cantilever, etc.

### TECHNICAL SERVICE GROUP:

The geotechnical Consultant shall be staffed with a Technical Service Group that consist of certified field and laboratory technicians. All field and laboratory work shall performed by certified technicians with at least five (5) years of materials testing and inspection experience. Members of the Technical Service Group shall maintain the following qualification and certifications:

- 1. Current National Institute for Certification in Engineering Technologies- Construction Materials Testing, Level I-IV.
- 2. Current National Institute for Certification in Engineering Technologies- Geotechnical Engineering, Levels I-III.
- 3. Current American Concrete Institute-Grades I and II Concrete Technician.
- 4. Current Nuclear Gauge Operator and Safety Training Certification.

The Consultant shall be able to demonstrate that he/she is equipped, certified, and able to perform the following materials tests :

#### A. SOILS:

- a. Nuclear Density
- b. Sand Cone Density
- c. Gradation
- d. Hydrometer Analysis
- e. Atterberg Limits
- f. Specific Gravity
- g. Soil Stabilization Design
- h. Moisture-Density Relation
- i. Unconfined Strength
- j. Permeability ( Falling Head, and Constant Head)
- k. California Bearing Ratio (CBR)

#### B. CONCRETE:

- a. Mix Designs
- b. Flatness/Levelness
- c. Slump & Air Content
- d. Unit Weight/Yield
- e. Compressive Strength
- f. Flexural Strength
- g. Coring, and Testing of Cores.

#### C. MASONRY:

- a. Compressive Strength of Masonry Units
- b. Compressive Strength of Constructed Prisms
- c. Mortar Mix Design

- d. Strength of Mortar
- e. Absorption
- f. Grout Mix Design

**D. ASPHALT:**

- a. Pavement Section Design
- b. Bitumen Extraction
- c. Stability & Flow
- d. Mix Designs
- e. Aggregate Gradation
- f. Specific Gravity
- g. Unit Weight
- h. Coring

**E. AGGREGATES:**

- a. Moisture Content
- b. Gradation
- c. Specific Gravity
- d. Soundness
- e. Los Angeles Abrasion
- f. Absorption
- g. Clay Lumps/Friable Particles
- h. Flat/Elongated Pieces
- i. Fractured Faces.

**F. OTHER MATERIALS TESTING AS REQUIRED.**

SERVICES REQUIRED:

☒ Investigation

☒ Planning

PRODUCTS REQUIRED:

☒ Reports

GENERAL REQUIREMENTS AND CRITERIA:

1. Design must meet all applicable City Codes and Ordinances.
2. Design must comply with Engineering Department Guidelines.
3. Design must comply with all local, state and federal laws and regulations, including but not limited to the Americans with Disabilities Act.

OTHER CONSIDERATIONS:

1. Work to be coordinated with the Engineering Department.
2. This contract will be for a period of two years and an option to renew for an additional year.
3. Coordinate assignments through Consultant Project Managers as applicable.

PROJECT SCHEDULE: (Consecutive Calendar Days)

As per individual site contract.

## GENERAL SCHEDULE OF SERVICES AND FEES

### CONSTRUCTION MATERIALS TESTING

#### Professional Services

Chief Engineer/Scientist .....	Per Hour	\$150.00
Regional/Senior Technical Engineer .....	Per Hour	\$150.00
Project Engineer/Scientist/Geologist .....	Per Hour	\$ 85.00
Graduate Engineer .....	Per Hour	\$ 75.00
Staff Scientists/Geologist .....	Per Hour	\$ 65.00
Drafting .....	Per Hour	\$ 50.00
Clerical .....	Per Hour	\$ 35.00

#### Construction Materials Testing - Laboratory Testing Services

##### Concrete

Concrete Compression Testing including hold cylinder, each .....	Per Each	\$ 13.00
Flexural Strength of Concrete Test (Beams), each .....	Per Each	\$ 28.00
Masonry Cubes Compression Testing (ASTM C270) per set of 3 ....	Per Set	\$ 66.00
Masonry Grout Specimens Compression Testing (ASTM C1019) set...	Per Set	\$ 66.00
Mix Design Review, each .....	Per Each	\$ 150.00

##### Soils

##### Atterberg Limits:

Soils, per each .....	Per Each	\$ 50.00
Soils with additive, per each .....	Per Each	\$ 55.00
Sieve Analysis, per each .....	Per Each	\$ 55.00
Grain Size Analysis – Mechanical & Hydrometer, per each .....	Per Each	\$ 125.00
Moisture Density Relationship (Proctor Curve)		
ASTM D 698 (Standard), per each .....	Per Each	\$ 130.00
ASTM D 1557 (Modified), per each .....	Per Each	\$ 150.00
Nuclear Density Test Equipment, per test .....	Per Test	\$ 15.00
Material Finer than #200 Sieve, per each .....	Per Each	\$ 35.00
Moisture Content Determination, per each .....	Per Each	\$ 5.00
Specific Gravity, per each .....	Per Each	\$ 45.00
Density and Moisture Content, per each .....	Per Each	\$ 22.00
Unconfined Compressive Strength:		
Soil, per each .....	Per Each	\$ 30.00
Rock, per each .....	Per Each	\$ 37.00

##### Triaxial Test

Unconsolidated-Undrained, per specimen .....	Per Specimen	\$ 85.00
Unconsolidated-Undrained, Multiple Stage .....	Per Stage	\$ 350.00
Consolidated-Undrained with Pore Pressure Measurement, per specimen...	Per Specimen	\$ 650.00
Consolidated-Undrained with Pore Pressure Measurement, Multiple Stage...	Per Stage	\$ 850.00
Consolidation Test, per each .....	Per Each	\$ 350.00
Consolidated-Drained Direct Shear, per point .....	Per Point	\$ 125.00
Percent Swell, per each .....	Per Each	\$ 130.00
California Bearing Ratio, per each .....	Per Each	\$ 325.00
THD Triaxial, per each .....	Per Each	\$1,500.00

##### Permeability Test

Falling Head, per each .....	Per Each	\$ 130.00
Triaxial, per each .....	Per Each	\$ 360.00
pH Lime Series (ASM C977), per sample .....	Per Sample	\$ 165.00
Electrical Resistivity, THD Method, per each .....	Per Each	\$ 115.00
LA Abrasion Test .....	Per Each	\$ 165.00



## **GENERAL SCHEDULE OF SERVICES AND FEES**

### **CONSTRUCTION MATERIALS TESTING**

#### **Continued**

#### **Asphalt**

Molding Specimens, (3 specimens), per set.....	Per Set	\$ 135.00
Density (3 specimens), per set .....	Per Set	\$ 75.00
HVEEM Stability (3 specimens), per set .....	Per Set	\$ 125.00
Extraction & Gradation, each .....	Per Each	\$ 135.00
Theoretical Specific Gravity, each.....	Per Each	\$ 50.00
Nuclear Density Test Equipment, per test .....	Per Test	\$ 15.00
Density of Asphalt Core, each .....	Per each	\$ 45.00

#### **Construction Materials Testing - Field Testing Services**

<b><u>Engineering Technician</u></b> ; to perform field inspection of concrete, field density test, sample pick-up, per hour .....			Per Hour	\$ 35.00
<b><u>Senior Engineering Technician</u></b> to monitor drilled pier operations, verify reinforcing steel placement and size, proof rolling inspection, etc., per hour .....			Per Hour	\$ 40.00
Certified Welding Inspector, per hour.....			Per Hour	\$ 60.00
Fireproofing/Roofing Inspector, per hour.....			Per Hour	\$ 55.00
Concrete/Asphalt Coring, per hour (2-man crew).....			Per Hour	\$ 100.00
Field Gradations Equipment, per test.....			Per Test	\$ 12.00
Depth Checks, each... ..			Per Each	\$ 12.00
Concrete Flatness, per square foot (minimum \$800.00).....			Per Foot	\$ 04

## **GEOTECHNICAL / ENVIRONMENTAL**

#### **Geotechnical - Field Services**

Mobilization of Truck Mounted Drill Unit Round Trip, per mile (minimum \$250.00).....			Per Mile	\$ 3.00
Support Services including Such Items as Rental Equipment Expendable Supplies, Contract Personnel, and Permits .....			Per Each	Cost(+15%)
Per Diem, Per Man, Per day.....			Per Day	\$ 75.00
Soil Sampling Using Shelby Tubes and Split-Barrel Samplers Intermittent Sampling at 5-Foot Intervals				
0-50 Foot Depth, Per foot .....			Per Foot	\$ 12.50
50-100 Foot Depth, Per foot.....			Per Foot	\$ 16.00
Continuous Sampling				
0-10 Foot Depth, Per foot .....			Per Foot	\$ 16.00
10-50 Foot Depth, Per foot.....			Per Foot	\$ 20.00
0-50 Foot Depth, Carbide Bit, Per foot .....			Per Foot	\$ 12.00
50-100 Foot Depth, Carbide Bit, Per foot.....			Per Foot	\$ 16.00
Wash Drilling or Augering Without Sampling, Per foot.....			Per Foot	\$ 10.00
Rock Coring with NX Size Core Barrel				
0-50 Foot Depth, Carbide Bit, Per foot .....			Per Foot	\$ 37.50
50-100 Foot Depth, Carbide Bit, Per foot.....			Per Foot	\$ 40.00
Diamond Bits, if required .....			Per Each	Cost(+15%)
CME 5' Continuous Sampler 0'-50' Depth, Per run .....			Per Run	\$ 75.00
Stand-By or Access Time, Per hour.....			Per Hour	\$ 90.00
Drilling with Auger Rig, per hour (Minimum 4 hours).....			Per Hour	\$ 165.00



## **GENERAL SCHEDULE OF SERVICES AND FEES**

### **GEOTECHNICAL / ENVIRONMENTAL**

#### **Analytical Laboratory Services\***

BTEX, EPA Method SW8020 or 602, per test.....	Per Test	\$ 125.00
TPH, TX1005, per test.....	Per Test	\$ 90.00
Volatile Organics, EPA Method 8260, per test .....	Per Test	\$ 275.00
PCB Scan, SW8080 or EPA 608 Method, per test .....	Per Test	\$ 200.00
Primary Drinking Water Standards, Various Methods .....	Per Test	\$1000.00
Secondary Drinking Water Standards, Various Methods.....	Per Test	\$ 250.00
TCLP Metals (8), Various Methods, per test .....	Per Test	\$ 275.00
PLM Bulk Sample Analysis, per test .....	Per Test	\$ 25.00
Lead Bulk Sample Analysis, per test.....	Per Test	\$ 20.00
Shipping and Other Subcontract Service, per test.....	Per Test	Cost(+15%)

\*Prices quoted above are for normal turn around time (10 working days).

If rush turn around time of three (3) to five (5) days is required, a 50% to 100% surcharge is added.

#### **Equipment**

Photoionization Detector, per day .....	Per Day	\$ 145.00
Water Level Indicator, per day .....	Per Day	\$ 35.00
Combustible Gas and Oxygen Meter, per day.....	Per Day	\$ 55.00
Nuclear Density Test Equipment, per test.....	Per Test	\$ 15.00
Temperature Conductivity Meter and pH Meter, per day .....	Per Day	\$ 70.00
Vehicle (Minimum \$30.00/trip) .....	Per Mile	\$ .45
Computer Services, per hour.....	Per Hour	\$ 150.00
Generator, per day .....	Per Day	\$ 80.00
Steam Cleaner .....	Per Day	\$ 150.00
DOT Drums .....	Per Each	\$ 50.00
R-Meter.....	Per Day	\$ 30.00
Core Machine.....	Per Day	\$ 80.00
Core Bit Charge (Asphalt).....	Per Inch/Core	\$ 1.25
Subcontractor Services, Special Equipment .....	Per Each	Cost(+15%)
Commercial Transportation .....	Per Trip	Cost(+15%)
Photographic Services/Printing.....	Per Each	Cost(+15%)

Hourly work is portal to portal with a minimum of two hours per call out. Charges for services performed outside of 8:00AM to 5:00PM, over 8 hours per day and on Saturdays will be billed at 1.5 times the listed rates. Services performed on Sundays and holidays will be performed at 2.0 times the listed rates. Scheduling of services require 24 hour notice. Expedited services will be billed 1.5 times the listed rate.

Project Manager/Engineer to schedule personnel, supervise personnel and evaluate and review reports will be invoiced at \$16.00 per report issued. Above unit rates include up to three copies of each report distributed and mailed in accordance with your instructions, additional copies will be billed at \$1.00 per report.

The items listed above are those tests most frequently requested. Services and fees not listed will be quoted on request.

